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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Michael R. Rosen, et al  
U.S. Serial No.: 09/898,417 Examiner: B. Whiteman  
Filed: July 3, 2001 Group Art Unit: 1635  
For: A HIGH THROUGHPUT BIOLOGICAL HEART RATE THAT  
IS MOLECULARLY DETERMINED

1185 Avenue of the Americas  
New York, New York 10036  
September 9, 2004

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**COMMUNICATION IN RESPONSE TO AUGUST 16, 2004 NOTICE OF NON-COMPLIANT AMENDMENT (37 CFR 1.121)**

This Communication is being submitted in response to the August 16, 2004, Notice of Non-Compliant Amendment (37 CFR §1.121) issued by the United States Patent and Trademark Office in connection with the above-identified application. A response to the August 16, 2004 Notice is due on September 16, 2004. Accordingly, this Communication is being timely filed.

The Notice stated that the Amendment filed on June 4, 2004 did not comply because withdrawn claims 17-31 were not accompanied by the text of the claims, and that claims 33-35 had incorrect status. In response, applicants note that the remarks section of applicants' Amendment filed June 4, 2004 states that claims 17-31 are canceled, and thus the text of these claims is not required. Accordingly, applicants have amended the status identifier of

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claims 17-35 to "canceled" and have amended the status of claims 33-35 to "previously presented". Applicants attach hereto as **Exhibit A** a corrected list of all the claims.

No fee is believed to be due in connection with this Communication. If any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account Number 03-3125.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

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9/9/04  
Date